

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CARR-BEADLE, Minors.

UNPUBLISHED

April 10, 2014

No. 318520
St. Clair Circuit Court
Family Division
LC No. 12-000110-NA

In the Matter of CARR-BEADLE, Minors.

No. 318641
St. Clair Circuit Court
Family Division
LC No. 12-000110-NA

Before: SERVITTO, P.J., and FORT HOOD and BECKERING, JJ.

PER CURIAM.

In these consolidated appeals, respondents¹ appeal as of right orders terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

I. FACTUAL BACKGROUND

In March 2012, the court authorized a petition seeking court jurisdiction over respondents' three-month-old daughter. According to the petition, a Children's Protective Services (CPS) case was opened because of ongoing concerns about respondent mother's mental health, supervision of the infant, and the volatile relationship between respondents. The petition further alleged instability in housing, inability to financially care for the child, and failure to comply with services provided. Respondent mother entered a plea and the court assumed jurisdiction over the minor child. Respondents were ordered to comply with a treatment plan requiring various services. Respondents' son was born in November 2012, while they were in

¹ Respondent mother filed her claim of appeal in Docket No. 318520, and respondent father filed his claim of appeal in Docket No. 318641. The appeals were consolidated "to advance the efficient administration of the appellate process." *In re Carr-Beadle Minors*, unpublished order of the Court of Appeals, entered October 23, 2013 (Docket Nos. 318520, 318641).

the middle of their treatment plans. A petition was filed seeking court jurisdiction over him, based on allegations of continuing domestic violence between respondents, inappropriate housing on the part of respondent mother, lack of financial ability to provide for the child, and respondents' failure to comply with services. In December 2012, respondent mother consented to temporary court jurisdiction over the child and the court entered another dispositional order, requiring respondents to maintain suitable housing and income and participate in various services. At the time, respondent father was in jail on a domestic violence charge, stemming from an incident involving respondent mother.

In July 2013, the court authorized a supplemental petition seeking termination of parental rights. The petition alleged that respondents failed to participate in and/or benefit from services and still had instability in housing and income. Following a hearing, the court terminated respondents' parental rights. This appeal followed.

II. STANDARD OF REVIEW

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights if the court also finds that termination of parental rights is in the best interests of the child. MCL 712A.19b(5). Whether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). The trial court's decision is reviewed for clear error. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A decision is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake was made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

III. ANALYSIS

Both respondents argue that the trial court erred in finding the statutory grounds established by clear and convincing evidence. We disagree.

MCL 712A.19b(3) permits termination of parental rights under the following circumstances:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Only one statutory ground need be established to support termination of a respondent's parental rights. *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009).

Here, the conditions that led to the adjudication of respondents' daughter were concerns about respondent mother's mental health, respondents' ability to supervise their child, their domestic violence, instability in income and housing, and failure to comply with services. The court assumed jurisdiction over respondents' son because respondents were not complying with services, and there were still issues involving domestic violence, income, and housing.

Although respondent mother completed counseling in 2013, the evidence established that she failed to benefit from the counseling. Her counselor expressed concern because respondent mother lacked motivation and follow through with providers, and she was unable or unwilling to obtain employment. Moreover, despite the completion of parenting classes, both the foster care worker and the parent mentor who worked with respondent mother were still concerned about her parenting abilities, and both children had been injured during supervised visits with her. Respondent mother acknowledged that it would take her months to improve her parenting skills. She had not completed services to address the issue of domestic violence and lacked stability in income and housing while the case was pending.

The evidence established that respondent mother had not fully resolved the issues that led to court involvement with her children. Although she completed some services, she had not benefited to permit the safe return of her children. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). Given her failure to benefit from services, and the length of time this matter was pending, the trial court did not clearly err in terminating respondent mother's parental rights under MCL 712A.19b(3)(c)(i), (g), and (j).

With respect to respondent father, the evidence established that he failed to complete services to address his parenting skills and domestic violence, and he failed to benefit from life skills services. There were concerns about his mental health, despite his participation in counseling services. Respondent father was incarcerated twice while this case was pending, submitted positive drug screens, and failed to maintain stability in housing or income. The worker felt that respondent father would not benefit from further services. Given this situation, and the length of time this matter was pending, there was no clear error in the court's decision to terminate respondent father's parental rights under MCL 712.19b(3)(c)(i), (g), and (j).

Respondent father argues that termination was unwarranted because the Department of Human Services (DHS) failed to contact him or provide him with services after his release from

jail in February 2013. He faults the DHS, claiming they failed to make reasonable efforts at reunification. Generally, reasonable reunification efforts must be made to reunite the parent and child. *Mason*, 486 Mich at 152; *In re Frey*, 297 Mich App 242, 247; 824 NW2d 569 (2012); MCL 712A.19a(2).

The foster care worker explained that no referrals were made in 2013, because respondent father's whereabouts were unknown. The worker was unable to determine where he was, even after checking with respondent mother and with respondent father's relatives. Respondent father's relatives informed the worker they thought he was "on the run" because of an outstanding warrant. The trial court considered all of the evidence on this issue and expressly rejected any claim that DHS was at fault for failing to make referrals or provide services. The trial court's determination in this regard was based on the evidence, as well as its credibility determinations, and is not clearly erroneous. See *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Both respondents argue that the trial court erred in concluding that termination was in the children's best interests. We disagree.

In deciding a child's best interests, a court may consider the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the suitability of alternative homes. *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012).

In this case, the court noted the lack of a strong bond between respondents and their children and recognized the children's need for permanency and stability. The court also noted that neither parent sufficiently benefited from a comprehensive treatment plan designed to ensure they could safely parent their children. The trial court's conclusion that termination of both respondents' parental rights was in the children's best interests is fully supported by the evidence and is not clearly erroneous.

Affirmed.

/s/ Deborah A. Servitto
/s/ Karen M. Fort Hood
/s/ Jane M. Beckering